

App F. IX-4

Previous references

193 .

File No.

Musrai)

Serial Nos.

112

Later references

38-37 (3-6)
200-5371161

General and Revenue Secretariat.

Serial Nos

Par B for (2 October 1932

SUBJECT.

The Khandayan lands in Harsakuma village
belonging to the Ranganatha Swamie Temple
at Eral

To the Chief Commr

no. 586 of 16-10-32

For the instructions in regard to the
possession of the lands belonging to the
Temple

Serial
No.

Letter No 963/30-31 of 6.7.32 from the
Muzrai Commissioner forwarding records
about the Kandayam lands in Hiesakema
Village belonging to Sri Ranganatha Swamie
Temple at Sorab, stating that a few
tenants are reported to be willing to pay
a reasonable rigate of the tenancy is
made permanent but the rest are
neither agreeable to give an enhanced
rent nor to tie up the lands and some
are even unwilling to pay any rigate
requesting order of his proposals in the
matter are agreeable -

It appd, This may kindly be sent to
Law Secy for remarks on points raised
in para 2 of the P. U. D.

As regards para 3, ~~it is~~ it is for
consideration whether the proposals may be
accepted with the modification that, in
stead of offering the tenants permanent
tenancy, they may be offered ~~land~~
the lease of lands from 30 to 50 years
for once

g.s
18/7

In the circ^s explained
in paras #1 & 2 of the Secy's letter
under report, the proposal contained
in para 3 viz to try to bring about an
amicable settlement may be approved.

For Secy)

14/7/32

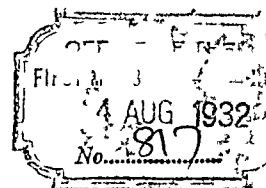
File N
3

of 1932

3

General and Revenue
Secretariat

P. U. O. It looks as though the D.C. &
M.C. doubt if Sec 19 of the Charitable
Institutions Regulation can be made
applicable to Muzrai Institutions. This
reference is invited to para 58 of the I Member's
letter of 18.8.30 in the reference collected in
File No 134-30 of 1930 put up in which
the I Member says "It has, besides,
been held that Muzrai Institutions are
also Public Religious & Charitable Institutions &



B.

For Secy)

27/7/32

Para 3 above may be approved.
Paper marked B' will have brought
to the notice of the Muzrai Comr to remove
the misunderstanding he is laboring
under -

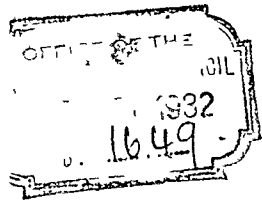
1st Member)

3/8/32

Please put up the legal opinion on
which the view at B is based. I
think this opinion was expressed by
Mr. Mahadevan in the
Swasamudram or Dakshi Narasappa Temple
Case.

The opinion expressed by Mr. Mahadevan
as an Advocate in the
Siddapur Temple Case may have
bearing on this case -

Serial
No.



The files required in paras 6 & 7 supra
have been subd separately. Copies of
legal opinion expressed in S. Odappu Vembu
lands Case are prepared & put up.
Copy of opinion expressed by
Mr. P. Mahadevayya in Bakshi Narayana's
Charities Case is put up - The view at
B. in para 4. appears to have been discussed
in paras 4 - 9 (next).

10 If it is necessary that the
connected files containing the above legal
opinions should be put up, it will be
attended to after the disposal of questions
in connection with which they have been
put up moreover

For Secy
27/8

For Secy)

18-11-1932

A. maybe put up. 5-9-32
11-9-32
12/9

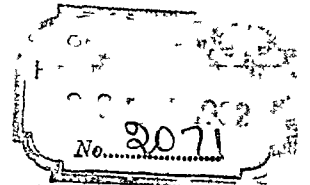
11) As for opinion expressed by Mr. P. Mahadevayya in
Bakshi Narayana's Charities Case, vide paras 62
and in my 3-26-32 & 18-11-32.

Legal & revenue branches opinion in S. Odappu
Vembu lands case is flagged A. (Reg 302-26
3-26-32) not as ordered

For Secy)

Subd
22/9/32

182 Minutes 17 Aug 2 32



18 As regards the doubt expressed at A in para 2 of MC letter an extract of enclosed portion [7 of the L R's note of 8-1-30 in the Nageswari Venkataswami Choultry Case may be sent for information - in regard to an amicable settlement

19) The letter may be appd. The Case of Devaditya lands is different from that of Shikhar lands. There can be no permanent tenancy in the Case of the former. Even as regards the former latter of is better if possible, to allow long term leases on such conditions as may be found in the interests of both the temple & the tenants and not grant permanent tenancy rights

20)

L/R dated

4.1
4/10/32

21) Please revise the draft and put up a tidy one

22) Fair etc. as per mally discussed mally

4.1
5/10/32

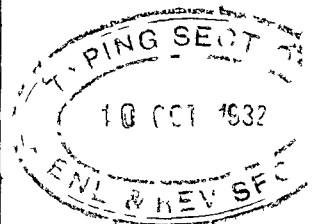
23) For perusal before issue

H. Sanyal

mally
5/10/32

24) 12/10/32
25) 2/10/10/32

11/10/32

mally
5/10/32

Serial
No.

2

No 5784 of 14 32 to the Muzme
Commissioner forwarding for information
an extract of the Legal Remembrances
note of 8/11 0 in a similar case
and giving instructions in regard to
the disposal of the lands belonging
to the Temple returned to him

B

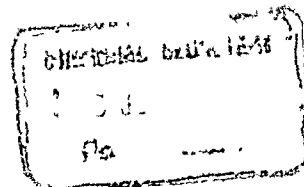
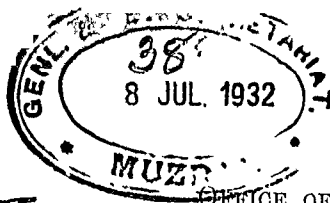
19/10

File No.

of 193

General

No. 463/3031
Encl 4 files



OFFICE OF THE MUZRAI COMMISSIONER
IN MYSORE. *17/7/32*

Dated, Bangalore, ... 4th July 1932 .

FROM

S. P. RAJAGOPALACHARI, ESQ., P.A., P.L., *Muz 80-32 7*
~~XXXXXXXXXXXXXXXXXXXXXXXXXXXX~~
Muzrai Commissioner in Mysore.

To

.....S.. Shamanna, Esq., P.A., ...
Secretary to the Government of His Highness
the Maharaja of Mysore.
... Financial.. ... Department.

SIR,

With reference to your letter No.1179/Muz.105-29-4 dated 24-11-30 stating that needful legal action may be taken on behalf of Sri Ranganathaswami temple at Sorab, in respect of kandayam lands in Hiresakuna village, I have the honor to forward herewith the vernacular records received with the Shimoga District Deputy Commissioner's letter No. Muz.1.2284/28-29 dated 4-12-30 (copy enclosed) and to state that out of 122 S.Nos. which the temple has in that village, are Devadaya Inam lands and the rest sircar lands. It is reported that a few tenants are willing to pay a reasonable migate if the tenancy is made permanent but the rest are neither agreeable to give an enhanced rent nor to give up the lands and some are even unwilling to pay any geni.

2. The institution has no funds at its credit and the Dharmadarsis are of opinion that as litigation means thousands of rupees the tenancy may be continued to the present tenants for a period of 30 years on condition of paying full assessment and a little migate. But the difficulty is about those who are not amenable to any such settlement and they appear to be in ^{the} majority. The Deputy Commissioner seeks instructions if action could be taken under Section 19 of the Religious and Charitable Institutions Regulation for the summary eviction of the tenants in accordance with your letter No.474/Muz.449-23-2 ~~xxx~~ dated 8-9-30, ^{the} doubts whether Section 19 which appears in a chapter applying to institutions other than Muzrai can be made applicable to

2.

a Muzrai institution. Moreover even if it is held to apply it gives only a very limited scope for action in this particular case as it cannot apply to cases where the enjoyment is for more than six years, and in this case the period of enjoyment is much longer than six years. The launching of Civil suits, on the other hand, is not only costly, ~~while~~ while the institution has no funds, but the chances of success are also dubious as the ryots can easily set up the plea of permanent tenancy under Section 79 of the Land Revenue Code and the onus lies on us to prove the right of the temple to enhance the rent (by agreement, usage or otherwise).

3. In the circumstances explained above, I am of opinion that an amicable settlement seems to be the best course to take. The Deputy Commissioner may be requested to camp in the place, offer the tenants permanent tenancy, and persuade them to agree to a reasonable rise in rent (a uniform rate to be fixed by him). If these proposals commend themselves to Government the Deputy Commissioner will be requested to take further steps in the matter and take mutchalikas from the tenants if they agree to the terms. I solicit early orders. The two Secretariat files received with your D.O. No.1197/Muz dated 23-2-32 are herewith returned.

I have the honor to be,

Sir,

Your most obedient servant,



Muzrai Commissioner

#

etter No.Muz.1.C.2284/28-29 dated 4-12-30 from the Deputy Commissioner, District, to the Muzrai Commissioner in Mysore.

In forwarding herewith the records received from the Sub Division Office Sagar Sub Division, with his report No.R2.C.987-177/29-30 dated 25-6-30, regarding the restoration of the Sircar lands in the khate of the Sri Ranganath swami temple at Sorab, I have the honor to state as follows:-

Out of 122 S.Nos. of Hiresakuna village in the Sorab Taluk, which are in the khate of the Sri Ranganathaswami temple at Sorab, 6 are Devauaya Inam lands and the rest are all sircar. It is reported by the Amildar, Sorab Taluk, that 40 tenants who are in possession of 71 S.Nos. are neither agreeable ^{an enhanced gutta not agreeable to give} to give up the lands in favour of the institution. It is further stated that some of the tenants have got possession of the lands through sale or mortgage about hundred years ago and that they are not willing to restore the lands to the temple. It is said that they are unwilling to pay even the geni. The Amildar states that some tenants have expressed their willingness to pay a reasonable migate to be fixed by Government provided the tenancy is made permanent.

The Dharmadarsis of the temple are of opinion that the institution has no funds and the launching of suits in Civil court requires thousands of rupees and is ruinous both to the institution and to the parties. They suggest that the lands may be left in the possession of the present tenants themselves subject to the condition of their paying the full assessment on the lands together with a little geni at first. They further state that as in the case of Survey and settlement, the tenure of the lease of these lands may in the first instance be extended to a period of 30 years, as a special case and that by the expiry of which time the tenants might be brought round and made to accept certain conditions advantageous to the institution. With regard to the tenants who are not agreeable even to this arrangement the Amildar proposes that instead of resorting to litigation a special order of Government may be obtained for the immediate restoration of the lands to the temple as per Revenue Rules.

While agreeing to the above proposals the Sub Division Officer, Sagar states as follows:-

"If the Takarardars agree to a rate of migate approved by the Deputy Commissioner, it will ^{not} only mean a steady income to the temple but will also establish a right on behalf of the temple to these lands as against the Takarardars ~~who~~ who are now contesting such a right. In agreeing to a migate, the parties will also have admitted their liability and their restricted rights

In the case of such of the parties who are not willing to come to suitable terms, the only course would be to seek redress in a Civil Court.

In regard to the eviction of such of the tenants as refuse to give up the temple lands or to give any mitigate, action could be taken under Section 19 of the Religious and Charitable Institutions Regulation 1927, without resorting to a Civil Court according to the Financial Secretary's opinion conveyed in his letter No.474/Muz.449-28-2 dated the 8th September 1930 addressed to the Muzrai Commissioner. But with due regard to the above opinion expressed by the Financial Secretary, I beg to submit that it does not appear to be in conformity with the express terms of the Regulation as Section 19 applies only to institutions other than Muzrai institutions as the heading of the chapter indicates. The institution under reference is Muzrai institution.

Under these circumstances, I request clear instructions in the matter my view of the matter is found to be correct.

"COPY"

Ramanna

For Financial Secretary.

SUBJECT

Section *Muz*

File No. *80 3*

Serial No. *2*

Diary No. of letter replied to

No.

584 Enclosure

To

2 files.

The m.c.

General and Revenue Secretariat

()

the 193 .

Date of issue

14/10/32

Signed by

B. Muddukrishna

Li,

Li: The m.c. to be a 2 of .

You letter no 962/20-31 of
6.4.32 *reporting* *that, in connection*

with the above subject, the D.C.

Shimoga has expressed a
doubt as to whether Secⁿ 19 of

the Muz. Regⁿ would apply:

is a Chapter applying to land not
other than Muzrai, (see Secⁿ 19)

made applicable to

List of enclosures

Copied by

Examined by

1/11/3. Justification & has sought
instructions of action could be
taken under that Secⁿ for
the ~~sum~~ any eviction of the
tenants, I am directed to forward
henceforth for information and to take
of the legal Remembrance's note
of 8.1.30 in a similar case.

As regards the offer ^{to the tenants} of permanent
tenancy rights ~~in respect of the lands~~
~~lands of the tenants~~ - ref. to para 3

of your letter I am directed to
observe as follows: --

The case of Devadaya
lands is different from those
of Sirkan lands. There can
be no permanent tenancy in
the case of the former. Even so
regarding the Taluk it is better,
if possible, to allow long term
leases on such condition,
as may be fair in the interests
of both the landlord & the tenants
& not to grant permanent
tenancy rights.

May 4.

Portion of para 64
that appears within the
pencil Brackets,
Para 65, 66, 67 & 68
in May 3-26-45.

G. R. S. G/33]

GENERAL AND REVENUE
SECRETARIAT.

(Continuation sheet draft form.)

The recommendation

regards to an amicable Settlement

being made, in para 3 of the letter and
advantage, is added and —
necessary action in the light
of the above observation
may be taken at a very
early date —

The records received
with your letter under
advantage are herewith
returned Kindly

Yours etc

MBL h 7.10
For Sec to Govt
H. Depn

W. J. H.

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

FINANCIAL SECRETARIAT,

No. 584 *Encl.* *act* *Dated, Bangalore, 11th October,*
14th
Muz 80-32-2 *File*

From

S SHAMANNA, Esq., B A

Financial Secretary to the Government of His Highness the Maharaja of Mysore.

To

The Muzrai Commissioner in Mysore,

Bangalore.

Sir,

Subject :- Re: Lands in Hiresakuna village belonging
to Sri Ranganathaswami temple at Sorab.

With reference to para 2 of your letter No. 963/30-31 dated 6th July 1932 reporting that, in connection with the above subject, the Deputy Commissioner, Shimoga District has expressed a ~~double~~ doubt as to whether Section 19 of the Muzrai Regulation which appears in a chapter applying to institutions other than Muzrai, can be made applicable to a Muzrai Institution and has sought instructions if ~~action~~ action could be taken under that Section for the summary eviction of the tenants, I am directed to forward herewith for information an extract of the Legal Remembrancer's note dated 8th January 1930 in a similar case.

AS regards the offer to the tenants of permanent -- tenancy rights referred to in para 3 of your letter I am directed to observe as follows :-

The case of Devadaya lands is different from that of Sirkar lands. There can be no permanent tenancy in the case of the former. Even as regards the latter it is better, if possible, ~~the~~ to allow long term leases on such -- conditions as may be fair in the interests of both the -- temple and the tenants and not to grant permanent tenancy rights.

The recommendation in regard to an amicable settlement being made, in para 3 of the letter under advert^cance, is approved
and

- 6 -

approved and necessary action in the light of the above --
observations may be taken at a very early date.

(5) The records received with your letter under advertence are
herewith returned .

I have the honour to be,

Sir,

Your most obedient servant,



For Financial Secretary to Government.

es

The second question raises a doubt as regards the legality of the order under Section 18 of the Regulation 1927 on account of the fact that the said section is in Chapter III of the Regulation which is said to apply only to such "Public, Religious and charitable institutions as do not come under the definition of Muzrai Institutions." This view derives support from the heading of Chapter III which seems to exclude Muzrai institutions from the operation of this Chapter.

If however the Muzrai Regulation of 1913 is compared with the Regulation VII of 1927, it will be seen that Section 18 of the -- present Regulation is the same as section 9 of the Regulation of 1913 which undoubtedly applied to the case under consideration. The Regulation of 1927 has grouped the provisions of Chapter II of the Regulation of 1913 into two chapters viz., II and III of the present enactment, Chapter II applying solely to Muzrai institutions and Chapter III to all Public, Religious and charitable institutions. The heading prefixed to Chapter III, no doubt, seems to indicate that the provisions therein contained, apply to Religious and Charitable institutions other than Muzrai institutions, though the sections of chapter III read by themselves do not warrant any such presumption.

In modern statutes, the headings prefixed to sections or sets of sections are regarded as preamble to those sections and cannot be treated as if they were marginal notes. But it is a settled rule that the preamble cannot be made use of to control the enactments themselves when they are expressed in clear and unambiguous terms. (Maxwell, page 92).

In 1925 All. 787, it has been held that in construing statutes the headings have to be ignored and it is only the sections which are the substantive parts of the enactment that have to be interpreted. The case arose out of the court Fee Regulation and raised a very similar point.

Applying this principle, it is seen that ~~xx~~ since the -- definition in Section 2(1) of " Religious or charitable --

Institutions"

Institutions " is very comprehensive and includes thereunder every
Muzrai institution, the phrase occurring in chapter III must be
interpreted accordingly and the provisions of that chapter
must be held to apply also to Muzrai institutions. If the phrase
"religious or charitable institution" occurring in Chapter III
otherwise interpreted as ⁶ ~~the~~ mean only such institutions as do not
fall under the definition of Muzrai institutions, the definition in
section (2) Cl.(1) becomes otiose, since that phrase is seen to --
occur mainly in chapter III of the Regulation.

x

x

x

x

x

x

~~Extra~~
~~Copy~~ "

B. M. M. Chaudhary
For Secretary to Government
4-1 Financial Dept.

1914.
(Muzrai)

File No. 484

Serial Nos. 142

Later references.

572-15
562-16-1-2

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 142

Part B for May 1915

SUBJECT.

Repairs to Kanole Devappa
Chattram at Sagar

1. The Dy Commr Shimoga
& Comptroller No 2533-4
5.5.15

Sanctions an estimate for Rs 567/-
for the —